

Decision No. 29137

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
H.C.Milam to sell and W.H.Prewitt
to purchase an Automobile (Passen-
ger and Express Line) operated between
Brawley and San Diego, California

Application No. 20728

BY THE COMMISSION:

ORIGINAL

O P I N I O N

H.C.Milam has petitioned the Railroad Commission for an order approving the sale and transfer by him to W.H.Prewitt of an operating right for the automotive transportation as a high-way common carrier of passengers and property between Brawley and Julian via Borega and between Julian and intermediate points to San Diego via Santa Ysabel, Ramona, San Pasquel Battlefield, Escondido Lake Hodges, Rancho Santa Fe and Delmar, and W.H. Prewitt has petitioned for authority to purchase and acquire said operating right and to hereafter operate thereunder, the sale and transfer to be in accordance with an agreement, a copy of which, marked Exhibit "A", is attached to the application herein and made a part thereof.

The consideration to be paid for the property herein proposed to be transferred is given as \$375.00 which is alleged by the applicant to be the value of the intangibles. No equipment is to be transferred.

The operating right herein proposed to be transferred was created by Decision No. 25988 dated May 29, 1933 on Application No. 18866 and Decision No. 27101 dated May 28, 1934 on Application No. 19310.

This appears to be a matter in which a public hearing is not necessary. The application will be granted.

W.H.Prewitt is hereby placed upon notice that "operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state which is not in any respect limited to the number of rights which may be given.

O R D E R

IT IS HEREBY ORDERED that the above entitled application be, and the same is hereby granted, subject to the following conditions:

1. The consideration to be paid for the property herein authorized to be transferred shall never be urged before this Commission, or any other rate fixing body, as a measure of value of said property for rate fixing, or for any purpose other than the transfer herein authorized.
2. Applicant H.C.Milam shall within twenty (20) days after the effective date of the order herein unite with applicant W.H.Prewitt in common supplement to the tariffs on file with the Commission, covering service given under the certificate herein authorized to be transferred, applicant H.C.Milam withdrawing and applicant W.H.Prewitt accepting and establishing such tariffs and all effective supplements thereto.
3. Applicant H.C.Milam shall within twenty (20) days after the effective date of the order herein withdraw all time schedules filed in his name with the Railroad Commission and applicant W.H.Prewitt shall within twenty (20) days after the effective date of the order herein file, in duplicate, in his own name time schedules covering service heretofore given by applicant H.C.Milam which time schedules shall be identical with the time schedules now on file with the Railroad Commission, in the name of applicant H.C.Milam or time schedules satisfactory to the Railroad Commission.
4. The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been obtained.
5. No vehicle may be operated by applicant W.H.Prewitt unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.
6. The authority herein granted to sell and transfer the right and/or property shall lapse and be void if the parties

hereto shall not have complied with all the conditions within the periods of time fixed herein unless, for good cause shown, the time shall be extended by further order of the Commission.

Dated at San Francisco, California, this ~~10th~~ day of

September, 1936.

M. B. Lavin

Leon O'Connell

W. A. Curran

William H. Moore

Frank P. Bell

COMMISSIONERS